

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

FUSION ELITE ALL STARS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:20-cv-2600-SHL-cgc
VARSITY BRANDS, LLC, et al.,)	
)	
Defendants.)	
)	

SCHEDULING ORDER

Pursuant to written notice, a scheduling conference was held by video conference on September 30, 2020. Present were Benjamin A. Gastel, Eric L. Cramer, H. Laddie Montague, Jr., Mark Suter, Mary L. Russell, J. Gerard Stranch, IV, Greg S. Asciola, Karin E. Garvey, Trey Thatcher, Victoria Sims, Katheryn Van Dyck, Greg Asciola and Brian Shearer, counsel for plaintiffs, and Adam S. Baldridge, George Cary, Matthew S. Mulqueen, Steven Kaiser, Grady M. Garrison, Nicole D. Berkowitz and Alexis Collins, counsel for defendants. The Court discussed dates and deadlines with the Parties, and the Parties agreed to submit a joint proposed scheduling order. Pursuant to the joint proposed scheduling order, the following deadlines shall control this matter:

FIRST DAY TO SERVE WRITTEN DISCOVERY REQUESTS: October 16, 2020.

INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1): October 30, 2020.

PRODUCING PARTIES TO PROVIDE ORGANIZATIONAL CHARTS (TO THE EXTENT THEY EXIST): 30 days after being served with the requesting Parties' first requests for production of documents.

MOTION TO DISMISS: December 1, 2020.

OPPOSITIONS TO MOTION TO DISMISS: January 15, 2021.

REPLIES IN SUPPORT OF MOTION TO DISMISS: February 15, 2021.

PARTIES TO SUBMIT DISPUTES TO COURT REGARDING ANY AREAS OF DISPUTE REGARDING DOCUMENTS TO BE PRODUCED IN RESPONSE TO REQUESTS FOR PRODUCTION: 90 days from service of the Parties' first Requests for Production.

ALTERNATIVE DISPUTE RESOLUTION

- (a) **ADR DEADLINE PURSUANT TO ADR PLAN RULE 4.3(a):** December 23, 2020.
- (b) **SELECTION OF MEDIATOR PURSUANT TO ADR PLAN RULE 5.4(c):**

ADR STIPULATION FILING DATE: On or before October 23, 2020, the Parties will file a stipulation designating the specific ADR intervention the Parties have selected, the time frame within which the ADR process will be completed, and the selected Neutral.

COMPLETING FACT DISCOVERY:

- (a) **DOCUMENT PRODUCTION¹**
 - (1) **BEGIN ROLLING PRODUCTION OF DOCUMENTS IN RESPONSE TO REQUESTS FOR PRODUCTION:** Within 75 days of service of the relevant requests for production of documents, subject to any unresolved objections of the producing Party.
 - (2) **COMPLETION OF PRODUCTION OF TRANSACTIONAL DATA IN RESPONSE TO REQUESTS FOR PRODUCTION:** Within 100 days of service of the relevant requests for production of documents, subject to any unresolved objections of the producing Party.
 - (3) **COMPLETION OF DOCUMENT PRODUCTION IN RESPONSE TO REQUESTS FOR PRODUCTION:** Within 165 days of the service of relevant requests for production of documents, subject to any unresolved objections of the producing Party.
- (b) **DEADLINE FOR MOTIONS TO JOIN PARTIES:** November 19, 2021.
- (c) **DEADLINE FOR MOTIONS TO AMEND PLEADINGS:** November 19, 2021.

¹ All requests for production must be served at least 45 days before the end of Fact Discovery.

- (d) **DEADLINE FOR COMPLETION OF DEPOSITIONS:** February 18, 2022.²
- (e) **DEADLINE FOR SERVING INTERROGATORIES AND REQUESTS FOR ADMISSION:** January 14, 2022.
- (f) **CLOSE OF FACT DISCOVERY:** February 18, 2022.

EXPERT WITNESS DISCLOSURES

- (a) **DEADLINE TO SERVE EXPERT REPORTS ON ALL ISSUES ON WHICH A PARTY HAS THE BURDEN OF PROOF:** March 18, 2022.
- (b) **DEADLINE TO SERVE OPPOSING EXPERT REPORTS:** May 13, 2022.
- (c) **DEADLINE TO SERVE REBUTTAL EXPERT REPORTS:** July 11, 2022.
- (d) **DEADLINE FOR EXPERT WITNESS DEPOSITIONS:**³ August 12, 2022.

MOTIONS FOR CLASS CERTIFICATION AND TO EXCLUDE EXPERTS UNDER F.R.E. 702/DAUBERT MOTIONS: September 16, 2022.

OPPOSITIONS TO MOTIONS FOR CLASS CERTIFICATION AND TO EXCLUDE EXPERTS UNDER F.R.E. 702/DAUBERT MOTIONS: November 11, 2022.

STATUS CONFERENCE TO SET SCHEDULE FOR SUMMARY JUDGMENT AND TRIAL: November 18, 2022 at 9:30 AM.

REPLIES IN SUPPORT OF MOTIONS TO EXCLUDE EXPERTS UNDER F.R.E. 702/DAUBERT MOTIONS: December 9, 2022.

REPLIES IN SUPPORT OF MOTIONS FOR CLASS CERTIFICATION: December 22, 2022.

SUMMARY JUDGMENT MOTIONS: To be discussed at November 18th conference.

² The deadlines for completing depositions and closing fact discovery are contingent on the Parties' substantially completing production of data and documents sufficiently in advance of the February 18, 2022 deadline for completing depositions and closing fact discovery so that the Parties have sufficient time to prepare for and utilize the documents at depositions.

³ Absent agreement of the Parties, each expert is subject to a maximum of one deposition lasting no more than seven hours.

JOINT PROPOSED PRETRIAL ORDER DUE: To be set by the Court at November 18th conference.

PRETRIAL CONFERENCE DATE: To be set by the Court November at 18th Conference.

JURY TRIAL: To be set by the Court at November 18th Conference.

OTHER RELEVANT MATTERS:

Pursuant to Local Rule 16.3(d), within 7 days of completion of ADR, the parties shall file a notice via ECF confirming that the ADR was conducted and indicating whether it was successful or unsuccessful, without disclosing the parties' respective positions at the ADR. The Mediator must file a Mediation Certification form, as noted above.

Pursuant to Local Rule 7.2(a)(1)(A), all motions, except motions pursuant to Fed. R. Civ. P. 12, 56, 59, and 60 shall, be accompanied by a proposed order in a word processing format sent to the ECF mailbox of the presiding judge.

Pursuant to Local Rule 7.2(a)(1)(B), the parties are required to consult prior to filing any motion (except motions filed pursuant to Fed. R. Civ. P. 12, 56, 59, and 60).

The opposing party must file a response to any opposed motion. Pursuant to Local Rule 7.2(a)(2), a party's failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion.

Neither party may file an additional reply to any motion, other than a motion filed pursuant to Fed. R. Civ. P. 12(b) or 56, without leave of the court. Pursuant to Local Rule 7.2(c), if a party believes that a reply is necessary, it shall file a motion for leave to file a reply within 7 days of service of the response, setting forth the reasons why a reply is required.

This order has been entered after consultation with the parties. Absent good cause shown, the deadlines set by this order will not be modified or extended.

IT IS SO ORDERED, this 15th day of October, 2020.

s/ Sheryl H. Lipman _____
SHERYL H. LIPMAN
UNITED STATES DISTRICT JUDGE